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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,512	08/13/2007	Stanley Irwin Grossman	60000005-0001	1421

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EXAMINER

NGUYEN, BAO THUY L

ART UNIT	PAPER NUMBER
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1641

MAIL DATE	DELIVERY MODE
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07/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,512	Applicant(s) GROSSMAN ET AL.	
	Examiner Bao-Thuy L. Nguyen	Art Unit 1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The preliminary amendment dated has been received.
2. Claims 1-25 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig (US 6,153,147) in view of Bogema (US 6,248,598).

Craig discloses a beverage analysis device comprising a multi-pack assembly having a plurality of drug detector strips attached thereto. See column 14, lines 40-50.

Craig differs from the instant invention in failing to teach at least one strip for detecting alcohol. Craig also fails to teach a kit comprising the device.

Bogema discloses a kit comprising more than one test strip for detecting drugs of abuse and alcohol. See column 8, lines 60-65 and column 11, lines 19-30.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to assemble the device taught by Craig into a kit for the advantage of convenience and economy. The use of kits is well known in the art as demonstrated

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by Bogema. It also would have been obvious to one of ordinary skill in the art to modify the device of Craig to include a test strip for detecting alcohol such as taught by Bogema because the use of test strips for detecting alcohol is well known in the art.

Regarding claims 2-4, 6 and 25, Craig discloses test strips for Rohypnol, GBH, caffeine and other illicit drugs. See column 4, lines 22-31.

Regarding claim 7, Craig teaches that one test strip may detect two different drugs. See column 9, lines 35-50 and Figure 2.

Regarding claim 8, Craig teaches that the multi-pack assembly may include more than one test strip for the same drug. See column 18, lines 55-68 and figure 25.

Regarding claim 9, Craig teaches chemical assay to detect the drug. See column 5, lines 49-54 and column 18, lines 8-25.

Regarding claim 10, Craig teaches color changing chemistry as means for detection. See column 18, lines 8-25 and column 16, lines 11-28.

Regarding claim 11, Craig teaches a bed supporting reagents, i.e. reagent carrier. See column 17, lines 63-66.

Regarding claim 12, Craig teaches that the detector strips are releasably attached to the support. See column 16, lines 38-46.

Regarding claims 13 and 15, Craig teaches that the support is formed from cardboard or plastic materials. See column 15, lines 38-60.

Regarding claim 14, Craig teaches the multiple units of the beverage analysis sampler device are spaced and contained by a packaging support which is injection molded to the vessels covers for each group of six units.

Regarding claim 16, although Craig does not specifically teach that the strips are attached to the support by means of an adhesive. Craig does teach an embodiment where individual strips are supported in a sterile sheath by adhesive. Therefore, a skill artisan would have had a reasonable expectation of success in using adhesive to facilitate the attachment of the test strips to the support because adhesive is a well known and convenient alternative means for retaining materials and allow the same to easily be removed from its main support component.

Regarding claims 17-19, Craig teaches a cover for the support which is folded over the main part holding the strips and held thereto by a staples. See figure 16B and figure 21.

Regarding claim 20, Craig teaches a third part of the device folded on top of the first part. See figures 16B and 21.

Regarding claims 21 and 22, Craig teaches a match box type assembly. See figures 16B and 21.

Regarding claim 24, Craig teaches that the assembly is printed with instruction. See figures 16B and 21.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao-Thuy L. Nguyen whose telephone number is (571) 272-0824. The examiner can normally be reached on Monday -- Thursday from 9:00 a.m. - 3:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bao-Thuy L. Nguyen/
Primary Examiner, Art Unit 1641
July 22, 2008